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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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PHILIPGENE P

EXAMINER

3732

ART UNIT

PAPER NUMBER

02/25/99

**DATE MAILED:**

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**09/211,819**

Applicant(s)

**Peggy L. Knight**

Examiner

**Pedro Philogene**

Group Art Unit

**3732** Responsive to communication(s) filed on Dec 15, 1998 This action is **FINAL**. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims** Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

 Claim(s) \_\_\_\_\_ is/are allowed. Claim(s) 1-19 is/are rejected. Claim(s) \_\_\_\_\_ is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152**--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---**

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 8-11, 14-16, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rich (5,555,900) in view of Capparelli et al. (3,521,648).

With respect to claims 1, 8 and 14, Rich discloses a face lifting device (44) comprising a substantially thin hair net (60) structured to be snugly seated over a person's scalp in covering relation thereto, and a generally resilient border (FIG.5) extending around an outer perimeter of the hair net, the border being structured to retain the hair net over the person's scalp; means (30,32) for retaining the skin over a person's face in a lifted position; wherein at least one adhesive pad (30) attached to a bottom surface of the border of the hair net; the at least one adhesive pad being structured to retain the skin over a person's face in a lifted position; as set forth in column 2, lines 40-46. Wherein a first one of the reinforced seams (54) extending from a temple on one side of the person's scalp to a temple on an opposite side of the person's scalp; as set forth in column 4, lines 60-63; and at least one adhesive pad (30) attached to a bottom surface of the border of the hair net; the at least one adhesive pad (30) being structured to retain the skin over a person's face in a lifted position; as set forth in column 2, lines 40-46.

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It is noted that Rich did not teach of a hair net having at least two sections, means for fixedly attaching the sections to one another so as to create a reinforced seam therebetween, as claimed by applicant. However, in a similar art, Capparelli et al evidences the use of a hair net having at least two sections which because of the knitting thereof, is inherently capable of stretching to accommodate various wearers.

Therefore, given the teaching of Capparelli et al, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a at least two sections netting in the device of Rich which because of the knitting thereof, is inherently capable of stretching to accommodate various wearers.

With respect to claims 2, 9 and 15, Capparelli et al disclose a device wherein the means for fixedly attaching the sections to one another comprises stitching; as set forth in column 5, lines 10-12.

With respect to claim 3, Rich discloses a device wherein the means for securing the skin over a person's face in a lifted position comprises at least one adhesive pad attached to a bottom surface of the border of the hair net; as set forth in column 3, lines 5-18 and as set forth in column 5, lines 17-38.

With respect to claims 4, 10, Capparelli et al disclose a device wherein the a first one of the reinforced seams extends from a temple on one side of the person's scalp to a temple on an opposite side of the person's scalp; as seen in figures 1, 2 and 4 and as set forth in column 4, lines 65-70 and column 5, lines 1-12.

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With respect to claims 5, 11 and 16, Rich discloses a device wherein a first adhesive pad (30) is positioned in the border on a first end of the first one of the reinforced seams and a second adhesive pad (32) is positioned in the border on an opposite second end of the first one of the reinforced seams; as set forth in column 5, lines 39-47.

With respect to claim 19, Rich discloses a device wherein the adhesive pad is double sided tape; as set forth in column 4, lines 32-34.

3. Claims 6,7, 12,13,17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rich (5,555,900) in view of Capparelli et al (3,521,648) further in view of Yu (5,853,009).

Though the above combination of references did teach of a perimeter that is made of elastic material or polymeric material which are inherently resilient; it is noted that the above combination of references did not teach of a device that has a perimeter that is coated with polyurethane, as claimed by applicant. However, in a similar art, Yu evidences the use of a hair device wherein the outer perimeter of the hair net is constructed of resilient material and wherein the resilient material is polyurethane which can be easily affixed to the user's scalp.

Therefore, given the teaching of Yu, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the resilient material in the device of Rich-Capparelli et al. with the polyurethane in the device of Yu to smoothly and accurately conform it and affix it to the user's scalp.

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***Drawings***

4. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5,592,957	6-1997	Gazerro et al.
1,356,112	10-1920	Boisvert
4,995,379	2-1991	Brooks
4,239,037	12-1980	Fausone
3,564,583	2-1971	Klugmann
2,438,005	3-1948	Goldman
3,809,100	5-1974	Megna
4,658,841	4-1987	Won

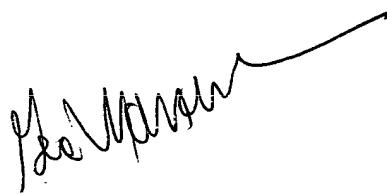
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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (703) 308-2252 and fax number is (703) 308-2708.

Gene Mancene  
Supervisory Patent Examiner  
Group 3700

P.PH

February 23, 1999

Handwritten signature of Gene Mancene, appearing to read "Gene Mancene".